

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re)	PROMESA
)	Title III
)	
THE FINANCIAL OVERSIGHT AND)	No. 17 BK 3283-LTS
MANAGEMENT BOARD FOR PUERTO RICO,)	
)	(Jointly Administered)
)	
As a representative of)	Re: ECF No.2944, 3569, 3831
)	
)	
)	
THE COMMONWEALTH OF PUERTO RICO)	Hearing date: January 30, 2019 at 9:30 a.m.
et al.,)	(Atlantic Standard Time)
)	
Debtors. ¹)	
)	

**FEE EXAMINER'S SUPPLEMENTAL REPORT AND STATUS REPORT ON
PRESUMPTIVE STANDARDS MOTION AND ON UNCONTESTED INTERIM FEE
APPLICATIONS RECOMMENDED FOR COURT APPROVAL AT OR BEFORE THE
OMNIBUS HEARING SCHEDULED FOR JANUARY 30, 2019 AT 9:30 A.M. (AST)**

TO: HON. LAURA TAYLOR SWAIN,
UNITED STATES DISTRICT JUDGE

This supplemental report provides the Court with an update on discussions with retained professionals on hourly rate increases and, in addition, recommends three deferred uncontested interim fee applications for the Court's approval at or before the January 30, 2019 omnibus hearing. Through the Fourth Interim Fee Period, the fees and expenses submitted through the

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the: (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and, (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

interim fee application process are just over \$304 million before consensual and approved reductions.

SUPPLEMENTAL REPORT

On October 31, 2018, the Fee Examiner filed the *Fee Examiner's Third Interim Report on Professional Fees and Expenses (February 1, 2018-May 31, 2018): I. Summary of Uncontested Fee Applications for the Third Interim and Prior Compensation Periods; II. Notice of Deferral of Specific Second and Third Interim Applications for Consideration at the January 30, 2019 Omnibus Hearing or a Later Date; and III. Informative Motion Regarding Attendance and Participation at November 7, 2018 Hearing* [Dkt. No. 4126] (the “**Third Interim Fee Period Report**”). The Third Interim Fee Period Report recommended the approval of 28 interim fee applications for the First (May 3-September 30, 2017), Second (October 1, 2017-January 31, 2018), and Third (February 1, 2018-May 31, 2018) Interim Fee Periods. It also notified the Court, the parties and the public of the consensual deferral of a group of Second and Third Interim Fee Period applications for consideration at a later date (the “**Deferred Second and Third Interim Fee Applications**”).

On November 7, 2018, the Court held a hearing on the Third Interim Fee Period Report and, on November 9, 2018, the Court entered the *Omnibus Order Awarding Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Expenses for the First (May 3 Through September 30, 2017), Second (October 1, 2017 Through January 31, 2018), and Third (February 1 Through May 31, 2018) Interim Compensation Periods* [Dkt. No. 4200] (the “**Third Interim Compensation Order**”).

On December 12, 2018, The Fee Examiner filed the *Fee Examiner's Supplemental Report, Status Report, and Informative Motion on Presumptive Standards Motion and On Uncontested Fee Applications for the Third (February 1-May 31, 2018) Interim Compensation*

Period Recommended for Court Approval—All at or Before the Omnibus Hearing Scheduled for December 19, 2018 at 9:30 A.M. (AST) [Dkt. No. 4455] (the “Third Interim Supplemental Report”), recommending nine deferred interim fee applications for Court approval. On December 19, 2018, the Court conducted an omnibus hearing where it, among other things, accepted the Fee Examiner’s recommendations in the Third Interim Supplemental Report, entering the *Supplemental Omnibus Order Awarding Interim Allowance of Compensation for Professional Services Rendered and Reimbursement of Expenses for the Third Compensation Periods From February 1 Through May 31, 2018* [Dkt. No. 4508] the same day.

The Fee Examiner now recommends for approval, on an uncontested basis, three deferred interim fee applications as outlined on **Exhibit A**. The remaining Deferred Second and Third Interim Fee Applications, listed on **Exhibit B**, remain the subject of discussions. Those applications will, with the continued consent of the applicants and with the Court’s permission, be deferred for consideration to the March 13, 2019 omnibus hearing or a later date.

Professionals began filing Fourth Interim Fee Period Applications (for fees from June 1-September 30, 2018) on or around November 13. The Fee Examiner expects to report on some of those applications in connection with the March 13 and April 24, 2019 omnibus hearings.

Since the December 19, 2018 hearing, the Fee Examiner and counsel have continued an extended dialogue with professionals subject to the Title III review process. The fee review process and findings outlined in the previous reports apply with equal force to the deferred interim fee applications now recommended for Court approval, as adjusted. These include:

1. *First Interim Application of Citigroup Global Markets, Inc. for Allowance of Compensation for Services Rendered and Reimbursement of Expenses Incurred as Investment Banker and Financial Advisor to the Financial Oversight and Management Board, as Representative of the Debtors, From January 2017 – January 2019* [Dkt. No. 2944]

The Financial Oversight and Management Board (the “**Board**”) retained Citigroup Global Markets, Inc. (“**Citigroup**”) pursuant to a January 27, 2017 engagement letter² to assist the Board as financial advisor and investment banker and to formulate a restructuring transaction for PREPA. Citigroup’s first interim fee application seeks \$625,000 in fees and \$60,971.21 in expenses for services provided during the twelve-month period from January 2017 through January 2018.

Pursuant to the January 27, 2017 engagement letter, Citibank was to receive compensation at a fixed rate of \$250,000 per month, plus a success fee of .0333 percent of the par value of any ultimate PREPA bond issuance. On February 13, 2018, Citigroup and the Oversight Board amended their engagement agreement, expanding the scope of Citibank’s engagement agreement to include advising on financial issues caused by the hurricanes and PREPA’s recovery effort and advising on the potential privatization of PREPA’s generation assets.³

The Fee Examiner’s review of Citigroup’s first interim fee application noted discrepancies between the submitted time records and electronic data and a number of expense items lacking complete documentation, requesting additional materials to address those concerns.

² The January 27, 2017 engagement letter is attached to Citigroup’s first interim fee application as Exhibit 1.

³ The February 13, 2018 amended and restated engagement letter, attached to Citigroup’s first interim fee application as Exhibit 2, added an additional \$400,000 per month in flat fee compensation and an additional \$24 million success fee. These changes did not become effective during the time period covered by Citigroup’s first interim fee application. Given the nature and amount, the Fee Examiner has reserved the right to assess further the basis for the monthly and success fees in connection with subsequent interim fee applications so that he can advise the Court with respect to them.

Citigroup either provided sufficient explanation or agreed to the reductions of its requested fees and expenses outlined on **Exhibit A**. The Fee Examiner recommends the Court's approval of this application, as adjusted.

2. *Second Interim Fee Application of DLA Piper for Allowance of Compensation for Services Rendered and For Reimbursement of Expenses as Counsel to the Puerto Rico Fiscal Agency and Financial Advisory Authority and The Puerto Rico Treasury Department for the Period from February 1, 2018 Through May 31, 2018* [Dkt. No. 3569]

DLA Piper (Puerto Rico) LLC and DLA Piper LLP (US) ("**DLA Piper**") requested approval of \$902,090.92 in fees and \$15,937.82 in expense reimbursements for services provided during the Third Interim Fee Period. DLA Piper continues to serve as tax advisor to the Government of Puerto Rico Department of Treasury ("**Hacienda**"), the Government Development Bank for Puerto Rico ("**GDB**"), and AAFAF. DLA Piper reports that, other than the preparation of fee statements and interim fee applications, none of its work directly relates to the Title III cases.

The Fee Examiner identified several billing errors, administrative tasks inappropriately performed by professionals, timekeeping issues, and a number of expenses lacking documentation. DLA Piper either provided supplemental information sufficient to satisfy the concerns or agreed to reductions from requested fees and expenses. The Fee Examiner recommends the Court's approval of this application, as adjusted and outlined on **Exhibit A** to this report.

3. *Third Interim Fee Application of Deloitte Financial Advisory Services LLP for Compensation for Services Rendered and Reimbursement of Expenses Incurred as Advisor From February 1, 2018 Through May 31, 2018* [Dkt. No. 3831]

Deloitte Financial Advisory Services LLP ("**Deloitte FSA**") requested approval of \$3,124,262.00 in fees and \$129,381.88 in expense reimbursements for financial services to

AAFAF and Hacienda related to the fiscal year 2018 budget forecasting, fiscal year 2019 budget, fiscal year 2018 revenue enhancement initiatives, and the design and implementation of a centralized Chief Financial Office at Hacienda. Deloitte asserts that a significant portion of its work for Hacienda does not relate directly to the Title III proceedings.

In the letter report to Deloitte FSA, the Fee Examiner identified timekeeping and expense discrepancies and requested explanation and additional supporting detail. Deloitte FSA either provided explanatory material sufficient to address the concerns or agreed to deductions from requested fees and expenses. The Fee Examiner now recommends Court approval of this application, as adjusted and outlined on **Exhibit A**.

STATUS REPORT

Additional Presumptive Standards Motion

On November 27, 2018, the Fee Examiner filed the *Fee Examiner's Motion to Impose Additional Presumptive Standards: Rate Increases and the Retention of Expert Witnesses or Other Sub-Retained Professionals* [Dkt. No. 4730] (the “**Additional Presumptive Standards Motion**”). At the December 19, 2018 omnibus hearing, the Court denied the Additional Presumptive Standards Motion without prejudice [Dkt. No. 4516], requesting that the professionals and the Fee Examiner continue their discussions of the hourly rate increase issue in light of the Court's observations and comments on that subject.

The Fee Examiner has continued its discussions with professionals—with additional meetings scheduled in advance of the January 30, 2019 hearing— and has received additional materials supporting higher limits on rate increases than the Court had contemplated. Many professionals have been fully engaged preparing for and participating in last week's COFINA proceedings and requested additional time to share their thoughts on this important issue. The Fee Examiner, therefore, requests that the Court adjourn further consideration of the Additional

Presumptive Standards Motion to the March 13, 2019 omnibus hearing. In addition, the Fee Examiner and counsel have continued discussions and research on the recently-enacted tax legislation that, at least potentially, affects every professional subject to Title III fee review. The Fee Examiner and counsel will attend the January 30, 2019 omnibus hearing in New York to address any of the Court's questions or concerns regarding professional fees.

Dated: January 23, 2018.

WE HEREBY CERTIFY that on this date, we electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system that will send notification of such filing to all attorneys of record registered in the use of the CM/ECF system.

EDGE LEGAL STRATEGIES, PSC

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EXHIBIT A

EXHIBIT A

In re: The Financial Oversight and Management Board for Puerto Rico, as a representative of
The Commonwealth of Puerto Rico, et al.
PROMESA Title III No. 17 BK 3283-LTS

Second - Third Interim Fee Period Applications Recommended for Approval:

Applicant		Compensation Period	Interim Fees Requested	Fee Examiner's Recommended Fee Adjustments	Interim Expenses Requested	Fee Examiner's Recommended Expense Adjustments	Interim Fees Recommended for Approval	Interim Expenses Recommended for Approval
<i>Investment Banker and Financial Advisor to FOMB</i>								
1	Citigroup Global Markets Inc. [Dkt. No. 2944]	1/27/2017 - 1/31/2018	\$ 625,000.00	\$ -	\$ 60,971.21	\$ 32,191.02	\$ 625,000.00	\$ 28,780.19
<i>Counsel to AAFAF</i>								
2	DLA Piper [Dkt. No. 3569]	2/01 - 5/31/2018	\$ 902,090.92	\$ 32,764.07	\$ 15,937.82	\$ 4,784.26	\$ 869,326.85	\$ 11,153.56
	Debtor's Financial Advisor							
3	Deloitte Financial Advisory Services LLP [Dkt. No. 3831]	2/01 - 5/31/2018	\$ 3,124,262.00	\$ 28,118.02	\$ 129,381.88	\$ 1,943.12	\$ 3,096,143.98	\$ 127,438.76

EXHIBIT B

EXHIBIT B

In re: The Financial Oversight and Management Board for Puerto Rico, as a representative of
The Commonwealth of Puerto Rico, et al.
PROMESA Title III No. 17 BK 3283-LTS

Second - Third Interim Fee Period Applications Recommended for Deferral

Applicant	Compensation Period	Interim Fees Requested	Fee Examiner's Recommended Fee Adjustments	Interim Expenses Requested	Fee Examiner's Recommended Expense Adjustments
<i>Bankruptcy Counsel to Debtors - Commonwealth</i>					
1-a Proskauer Rose LLP [Dkt. No. 2868]	10/01 - 01/31/2018	\$ 5,453,686.60		\$ 294,582.75	
<i>Bankruptcy Counsel to Debtors COFINA</i>					
1-b Proskauer Rose LLP [Dkt. No.2870]	10/01 - 01/31/2018	\$ 562,239.80		\$ 5,584.22	
<i>Bankruptcy Counsel to Debtors ERS</i>					
1-c Proskauer Rose LLP [Dkt. No. 2872]	10/01 - 01/31/2018	\$ 2,121,996.20		\$ 52,896.53	
<i>Bankruptcy Counsel to Debtors PREPA</i>					
1-d Proskauer Rose LLP [Dkt. No. 2876]	10/01 - 01/31/2018	\$ 2,062,304.20		\$ 37,003.99	
<i>Bankruptcy Counsel to Debtors HTA</i>					
1-e Proskauer Rose LLP [Dkt. No. 2874]	10/01 - 01/31/2018	\$ 1,256,420.60		\$ 39,216.07	
<i>Financial Advisors to the Puerto Rico Fiscal Agency and Financial Advisory Authority</i>					
2-a Ankura Consulting Group, LLC [Dkt. No. 2751]	10/01 - 1/31/2018	\$ 3,937,979.00		\$ 175,457.10	
<i>Financial Advisors to PREPA</i>					
2-b Ankura Consulting Group, LLC [Dkt. No. 2755]	10/01 - 1/31/2018	\$ 3,475,283.50		\$ 153,684.90	
<i>Financial Advisors to Commonwealth</i>					
3-a Ankura Consulting Group LLC [Dkt. No. 3564]	2/01 - 5/31/2018	\$ 2,002,323.50		\$ 128,217.60	
<i>Financial Advisors to PREPA</i>					
3-b Ankura Consulting Group LLC [17-04780 Dkt. No. 918; First Amended Dkt. No. 3658]	2/01 - 5/31/2018	\$ 3,325,832.00		\$ 261,639.11	
<i>Counsel to Official Committee of Unsecured Creditors</i>					
4 Paul Hastings LLP [Dkt. No. 3568]	2/01 - 5/31/2018	\$ 8,676,112.75		\$ 586,993.66	
<i>Counsel for Debtors - COFINA</i>					
5-a Proskauer Rose [Dkt. No. 3571]	2/01 - 5/31/2018	\$ 94,488.00		\$ 4,277.94	
<i>Counsel for Debtors - ERS</i>					
5-b Proskauer Rose [Dkt. No. 3590]	2/01 - 5/31/2018	\$ 445,503.70		\$ 16,638.88	
<i>Counsel for Debtors - HTA</i>					
5-c Proskauer Rose [Dkt. No. 3576]	2/01 - 5/31/2018	\$ 1,219,419.80		\$ 40,404.55	
<i>Counsel for Debtors - PREPA</i>					
5-d Proskauer Rose [Dkt. No. 3582]	2/01 - 5/31/2018	\$ 3,246,887.10		\$ 169,316.96	
<i>Counsel for Debtors - Commonwealth</i>					
5-e Proskauer Rose [Dkt. No. 3588]	2/01 - 5/31/2018	\$ 5,434,013.80		\$ 286,122.56	
<i>Counsel to AAFAF - COFINA</i>					
6-a O'Melveny & Myers [Dkt. No. 3575]	2/01 - 5/31/2018	\$ 837,368.29		\$ 3,688.16	
<i>Counsel to AAFAF - ERS</i>					
6-b O'Melveny & Myers [Dkt. No. 3578]	2/01 - 5/31/2018	\$ 194,579.33		\$ 13,657.88	
<i>Counsel to AAFAF - HTA</i>					
6-c O'Melveny & Myers [Dkt. No. 3579]	2/01 - 5/31/2018	\$ 155,651.42		\$ 451.10	
<i>Counsel to AAFAF - Commonwealth</i>					
6-d O'Melveny & Myers [Dkt. No. 3581]	2/01 - 5/31/2018	\$ 6,871,237.76		\$ 101,437.64	
<i>Investment Banker and Financial Advisor to FOMB</i>					
7 Citigroup Global Markets Inc. [Dkt. No. 4020]	2/01 - 5/31/2018	\$ 1,803,571.43		\$ 40,912.98	